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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/309,321	05/11/1999	CHARLES H. REYNOLDS	19697-4US	7357

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EXAMINER

HOLLOWAY III, EDWIN C

ART UNIT	PAPER NUMBER
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2635

DATE MAILED: 12/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/309,321

Applicant(s)

REYNOLDS, CHARLES H.

Examiner

Edwin C. Holloway, III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 26.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Examiner's Response

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9-16-02 has been entered.
2. In response to applicant's amendment filed 9-16-02, all the amendments to the specification and claims have been entered. The examiner has considered the new presentation of claims and applicant's arguments in view of the disclosure and the present state of the prior art. And it is the examiner's opinion that the claims are unpatentable for the reasons set forth in this Office action:

INFORMATION DISCLOSURE STATEMENT

3. The information disclosure statement filed 9-16-02 fails to comply with 37 CFR 1.98(a)(1), which requires a list of all patents, publications, or other information submitted for consideration by the Office. The list lacks a proper publisher and date of publication. It has been placed in the application file, but the information referred to therein has not been considered.

Documents 1-6 include open ended publication dates of "on or before May 16, 2001" which is not a proper date of publication. For determination of proper dates, applicant is referred to the wayback machine at www.archive.org that shows, for example, earliest date of 1-9-97 for the seltronics web page. Although item 7 is considered admitted prior art, it is not proper for listing on an IDS because it has not been published. If applicant has published and/or on sale related information regarding

this admitted prior art, it is requested that applicant submit copies in a proper IDS.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5-9, 13-14, 16-17 and 21-37 of copending Application No. 09/471101. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitation of "wherein said first socket is able to receive a standard network cable connector and able to receive a control signal transmitted over a wire of a network cable; said network cable also carrying network communication signals over separate data wires" in the instant application corresponds to the limitation of "a first network socket located on said distinguishable surface; wherein said first network socket is able to receive a standard network cable connector and able to receive a control signal transmitted on one wire of a network cable also carrying network data communication signals on one or more separate data wires" of copending SN 09/471101.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

ART REJECTION

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over CHENG '174 (US 5644174) or PULIZZI (US 5923103) in combination with EEM 96 electronic engineers master catalog published by Hearst Business Communications, Inc. and Lord (US 5198806).

CHENG '174 discloses a universal AC sequencer for a server. The sequencer includes first control signal (input) socket 204, second control signal (pass thru output) socket 208, status indication LED's 216, switched power output sockets 130,140 controlled by control circuitry 250 including relays RLYM, RLY2. An IED AC input socket is included for a detachable power line or cord. The power sockets and control in socket are shown on a different parallel sides in fig. 3, but a housing is not particularly discussed. See col. 1 lines 1-10, col. 2 line 1 - col. 6 line 55.

PULIZZI discloses a remote switched output power controller 10 including first control signal (input) sockets 142,160, second control signal (pass thru output) socket 144,162, status indication LED's 30, switched power output sockets 16 controlled by control circuitry 18 including relays 60-76. The power sockets and control in socket are shown on a different parallel side in fig. 1, but a housing is not particularly discussed. See col. 1 line 46 - col. 4 line 62, col. 5 line 48 - col. 7 line 65.

EEM 96 discloses rack mounted remote controlled power supplies such as the MPD-100R MPD-100 IEC including a 1 3/4 inch high box housing for mounting in 1 standard rack unit, remote on/off control sockets on front, IEC power input socket for detachable line or cord on rear and switched power output sockets on rear. The TPC

115-10 and TPC 115-10/MTD include the above features and indicator lights. The IPC 3202 includes all the above features except only a single input on the rear is shown.

The satellite antenna lightning arrester system on page 2260 includes RJ45 phone/data sockets on a 1.75 inch rack mount unit. See pages 2260-2261, 2326-2329, 2340-2343, especially pages 2260 and 2341.

Lord discloses an analogous art remote power control system with a power control relay 220 connected to a line of a standard interface cable to control power via switch 220 without microprocessor decoding the signal. See fig. 3 and col. 6 line 53 - col. 7 line 35.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Cheng '174 or PULIZZI to include the housing limitations of EEM 96 because Cheng and PULIZZI refer to rack mount or stacked units, because EEM 96 discloses the claimed rack mount housing for analogous art remote controlled power supply including devices by PULIZZI and because it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70. The inclusion of 2, 4 or 8 pairs of control sockets associated with one or more independently controlled power supply sockets would have been obvious in view of the various configurations shown in EEM 96 and because plurality of part for multiplied effect is well known to be obvious.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above power control signals communicated on a pin or wire of standard network socket(s) or cable(s) such as standard RS-232C connector or cable, while other pins or wires are passed through as disclosed in Lord in order to allow power control of network devices without

additional physical connections. Plural, independent network sockets and control relays are further suggested by the plural, independent network connections of Pulizzi or EEM 96, and DTR is at least suggested by the RS232 carrier detect of Lord and RS232 connection in PULIZZI. RJ-45 would have been obvious in view of the Lord disclosing use of any standard data communications interface.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above circuitry turned on or off directly in response to the state of a control signal received at the first socket without decoding digital data received in the control signal in view of Lord disclosing power control relay 220 operating in this manner as best understood in order to allow simple, transparent power control over any standard communication interface.

Response to Arguments

8. Applicant's arguments with respect to claims 1-21 have been considered but are not persuasive and/or are moot in view of the new ground(s) of rejection.

Applicant's amendment has overcome the 35 USC 112 first paragraph rejection.

The Chang patent has been removed from the rejection in response to applicant's arguments. Applicant's arguments that the applied references lacks the limitation of circuitry turned on or off directly in response to the high/low state of a control signal received at the first socket is not persuasive because this would have been obvious in view of Lord for the reasons discussed in the rejection made above. The argument that the modem of Lord provides decoding is not persuasive because the modem is a separate network device corresponding the network controller in the from of a router generating power control signals on page 3 lines 9-17 of applicant's disclosure. The argument that Pulizzi and other applied reference lack direct operative connection

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between a signal line of network sockets and the relays without processing the signals is not persuasive because such a limitation is taught by Lord. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the examiner has provided motivations such as allowing use in standard rack mount network systems and allow remote power control without additional physical attachment, simple and transparent power control as stated in the prior art rejections.


CONTACT INFORMATION

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology center 2600 receptionist whose telephone number is **(703) 305-4700**.

Facsimile submissions may be sent via fax number (703) 872-9314 to customer service for entry by technical support staff. Questions regarding fax submissions should be directed to customer service voice line (703) 306-0377.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (703) 305-4818. The examiner can normally be reached on M-F (8:30:-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (703) 305-4704.

EH
11/30/02



EDWIN C. HOLLOWAY, III
PRIMARY EXAMINER
ART UNIT 2635